

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KEVIN M. KEEFER & PATRICIA S.
KEEFER,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

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Case No.: 3:20-cv-00836-B

UNITED STATES' AMENDED MOTION FOR SUMMARY JUDGEMENT

The United States moves for summary judgment in its favor to deny an income tax refund to Plaintiffs Kevin M. Keefer and Patricia S. Keefer pursuant to Rule 56 of the Federal Rules of Civil Procedure. In 2015, Plaintiffs Kevin and Patricia Keefer made a purported \$1,257,000 charitable contribution to the Keefer Donor Advised Fund with the Pi Foundation, Inc. The Keefers are not entitled to an income tax refund because (1) the Keefers' purported charitable contribution of a limited Partnership interest was a transaction to which the anticipatory assignment of income doctrine applies, and therefore they have underreported their taxable income for 2015; (2) the Keefers' appraisal of their purported donation does not comply with statutory substantiation requirements; and (3) the Keefers' contemporaneous written acknowledgment required pursuant to 26 U.S.C. § 170(f)(18) obtained in connection with their purported donation neither specified the statutory "exclusive legal control" language nor contained a merger clause. Additionally any claim that the Keefers could bring that they instead that they are entitled to a charitable contribution deduction for a cash contribution in 2015 is jurisdictionally barred under the doctrine of variance.

Therefore, the Keefers are not entitled to a \$1,257,000 charitable contribution deduction for their 2015 tax year, and therefore are not entitled to the refund that they seek in their suit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on November 16, 2021, a copy of the forgoing was electronically filed on the CM/ECF system, which will automatically service a Notice of Electronic Filing on the following attorney in charge for Plaintiffs:

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